

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1776 of 1996
with
CIVIL APPLICATION NO. 7970 OF 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
 2. To be referred to the Reporter or not? No
 3. Whether Their Lordships wish to see the fair copy of the judgement? No
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
 5. Whether it is to be circulated to the Civil Judge?

No

STATE OF GUJARAT

Versus

BACHUBHAI R MAKWANA - DECD.THRD HEIR CHHOTALAL BACHUBHAI
& ORS.

Appearance:

Shri A.G. Uraizee, Assistant Government Pleader,
as instructed by Shri D.A. Bambhaniya, Government
Solicitor, for the Petitioner (in the main
matter) and for Opponent No. 1 (in the Civil
Application)

Shri Harin P. Raval, Advocate, for Respondents
Nos. 1 to 14 (in the main matter) and for the
Applicants (in the Civil Application)

Shri T.H. Sompura, Assistant Government Pleader,
for Respondent No. 15 (in the main matter) and
for Opponent No. 2 (in the Civil Application)

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 03/10/96

ORAL JUDGEMENT

The order passed by the Urban Land Tribunal at Ahmedabad (respondent No. 15 herein) on 30th March 1994 in Appeal No. Jamnagar-7 of 1994 is under challenge in this petition at the instance of the State Government. Thereby respondent No.15 accepted the appeal against the order passed by the Competent Authority at Jamnagar on 19th February 1994 declaring the holding of the deceased predecessor-in-title of respondents Nos. 1 to 14 herein to be in excess of the ceiling limit by 524.51 square meters. In appeal respondent No.15 declared the holding of the deceased land-holder not to be in excess of the ceiling limit.

2. It is not necessary to set out in detail the facts giving rise to this petition. The present petition challenges the appellate order passed by respondent No.15 as aforesaid. Its copy is at Annexure A to this petition. Learned Advocate Shri Raval for the contesting respondents on instructions agrees for setting aside the appellate order at Annexure A to this petition with a request for restoration of the order passed by the Competent Authority on 19th February 1994. Its copy is at Annexure B to this petition. Learned Assistant Government Pleader Shri Uraizee for the petitioners on instructions states that the petitioner State Government has no objection for restoration of the order at Annexure B after quashing and setting aside the appellate order at Annexure A to this petition. Even otherwise, unless a good ground is shown, on quashing and setting aside of the appellate order, the original order against which the appeal was preferred would revive and it would be restored. In that view of the matter, the appellate order at Annexure A to this petition deserves to be quashed and set aside and the order at Annexure B to this petition deserves to be restored. The matter will have now to go to the Competent Authority at Jamnagar for restoration of the proceeding to file for the limited purpose of giving choice to respondents Nos. 1 to 14 herein or their authorised representative for surrender of the surplus land in terms of the order at Annexure B to this petition.

3. Civil Application No. 7970 of 1996 is moved for vacating the interim relief granted in this case or in the alternative for fixing an early date of hearing. Since the main matter is taken up for its hearing today

itself, the civil application will not survive. It has to be disposed of accordingly.

4. In the result, the petition is accepted. The order passed by the Urban Land Tribunal at Ahmedabad on 30th March 1994 in Appeal No. Jamnagar-7 of 1994 at Annexure A to the petition is quashed and set aside and the order passed by the Competent Authority on 19th February 1994 at Annexure B to this petition is restored. The matter is remanded to the Competent Authority at Jamnagar for restoration of the proceeding to file and for his further action according to law in the light of this judgment of mine. Rule issued on the petition is accordingly made absolute to the aforesaid extent with no order as to costs.

5. Civil Application No. 7970 of 1996 is disposed of as having become infructuous. Rule issued thereon is discharged with no order as to costs.
